

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

MANUEL MACHADO ALVAREZ,	:		
	:		
Petitioner,	:		
	:		
v.	:	Misc. Action No.:	01ms0140 (RMU)
	:		
JEANNIE WOODFORD, WARDEN,	:	Document No.:	1
	:		
Respondent.	:		

ORDER

**GRANTING THE PETITIONER’S MOTION TO COMPEL THE PRODUCTION OF FILES;
REMANDING TO THE EASTERN DISTRICT OF CALIFORNIA THE ISSUE OF WHETHER THE FILES
SHOULD BE DISCLOSED TO THE RESPONDENT**

Manuel Alvarez (“the petitioner”) is currently confined in a California State Prison following his convictions for rape, robbery, and first-degree murder in the commission of the felony of attempted robbery. *See* Respondent’s Opp’n to Pet.’s Mot. to Compel the Production of Files from the U.S. Dep’t of Justice (“Respondent’s Opp’n”) at 2. He was sentenced to death on September 27, 1989. *See id.* In November 1998, the petitioner filed a first amended petition for writ of habeas corpus pursuant to Title 28 U.S.C. § 2254 with the United States District Court for the Eastern District of California in case number CIV S-97-1895. *See id.*

On November 8, 2000, the United States District Court for the Eastern District of California granted the petitioner’s request for leave to discover, among other things, numerous files in the possession of the Federal Bureau of Investigation (“FBI”) and the United States Attorney’s Office, Civil Rights Division, both in Washington, D.C. The petitioner sought these documents in his effort to demonstrate that his trial counsel failed to present potentially

important mitigating evidence in the penalty phase of his trial. Presumably, the petitioner believes that if his trial counsel had utilized this evidence or parts thereof during his trial, the jury might reasonably have opted not to sentence him to death. For these reasons, Magistrate Judge John Moulds in the Eastern District of California found that the petitioner had presented good cause to compel disclosure of the documents pursuant to Rule 6 of the Rules Governing § 2254 cases. *See* Order dated Nov. 8, 2000 issued by Magistrate Judge Moulds.

The petitioner now moves the Department of Justice to produce the files at issue but only for disclosure to the petitioner. He argues that because he was the only party to seek the documents and because the court ruled that **he** had shown good cause to receive the documents under Rule 6, the State of California (“the respondent”) is not entitled to the documents. The petitioner also argues that if incriminating statements are contained within the requested information, turning these statements over to the respondent could compromise the petitioner’s Fifth Amendment right against self-incrimination.

The respondent takes no position on the motion to compel except to say that if the petitioner receives the files, then it should receive them as well. *See* Respondent’s Opp’n at 2. In addition, the Department of Justice, the third-party defendants, “do not oppose the relief requested by [petitioner’s] counsel” but state that it is the Department’s usual policy to produce the documents to both parties. *See* Department of Justice’s Response to Mot. to Compel at 1, 5.

Based on Magistrate Judge Mould’s November 8, 2000 Order and acknowledging that the Department of Justice does not oppose the production of these documents, the court agrees that the petitioner is entitled to production of the documents at issue in this case.

Accordingly, it is this 17th day of May, 2001,

ORDERED that the Department of Justice, and its agencies, the relevant United States Attorney's Offices and the FBI, shall produce the requested documents to the petitioner only by **Tuesday, May 29, 2001**.

Moreover, the court takes no position on whether the respondent should also receive the requested documents but recognizes that the United States District Court for the Eastern District of California, which has handled discovery matters throughout this habeas-corpus proceeding, is better suited and situated to decide this issue. Accordingly, it is

FURTHER ORDERED that the issue as to whether the respondent should also receive the requested documents shall be **REMANDED** to the United States District Court in the Eastern District of California for its determination on the issue.

SO ORDERED.

Ricardo M. Urbina
United States District Judge

Service List in *Manuel Machado Alvarez v. Jeannie Woodford*
Dkt. No. 2001-ms-0140

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